california legislature—2007–08 first extraordinary session

SENATE BILL No. 23

Introduced by Senator Ashburn

October 11, 2007

An act to add and repeal Sections 17052.9 and 23605 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

legislative counsel's digest

SB 23, as introduced, Ashburn. Taxation: cafeteria plans: credits.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2007, and before January 1, 2012, in an amount equal to 15% of the amount of administrative costs paid or incurred by a qualified taxpayer during the taxable year in connection with establishing or administering a qualified cafeteria plan that provides for the payment of health insurance premiums of the taxpayer's employees, as defined. This bill would also require the Franchise Tax Board to report to the chairs and vice chairs of specified committees regarding the utilization of that tax credit, as provided.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17052.9 is added to the Revenue and Taxation Code, to read:

17052.9. (a) For each taxable year beginning on or after January 1, 2007, and before January 1, 2012, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 15 percent of the amount of administrative costs incurred by a qualified taxpayer in connection with establishing or administering a cafeteria plan that provides for the payment of health insurance premiums of the taxpayer's employees.

(b) For purposes of this section, both of the following definitions apply:

(1) "Cafeteria plan" means a qualified cafeteria plan as defined in Section 125 of the Internal Revenue Code.

(2) "Employer" means any individual, person, corporation, association, partnership, or limited liability company, or any agent thereof, that is doing business in this state, is deriving income from sources within this state, or is subject to the laws of this state. "Employer" also includes the State of California, or any political subdivision or agency thereof, including the Regents of the University of California, any city organized under a freeholders' charter, or any political body that is not a subdivision or agency of the state, and any person, officer, employee, department, or agency thereof, making payments of wages to employees for services performed within this state.

(3) "Qualified taxpayer" means an employer.

(c) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" for the succeeding seven years.

(d) No deduction shall be allowed, as otherwise provided in this part, for that portion of any costs paid or incurred for the taxable year for which a credit is allowed under this section.

(e) No credit may be claimed under this section with respect to any amount for which any other credit has been claimed under this part.

(f) On or before January 1, 2011, the Franchise Tax Board shall provide a report on the utilization of the tax credit described in this section to the chairs and vice chairs of the Senate Committee on Health, the Senate Committee on Revenue and Taxation, the Assembly Committee on Health, and the Assembly Committee on Revenue and Taxation. The report shall include information regarding the effectiveness of this credit, including the amount of the credit claimed, an estimate of the number of Section 125 cafeteria plans established and the number of employees affected, and information regarding the types of benefits offered by these plans.

(g) This section shall remain in effect until December 1, 2012, and as of that date is repealed.

SEC. 2. Section 23605 is added to the Revenue and Taxation Code, to read:

23605. (a) For each taxable year beginning on or after January 1, 2007, and before January 1, 2012, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to 15 percent of the amount of administrative costs incurred by a qualified taxpayer in connection with establishing or administering a cafeteria plan that provides for the payment of health insurance premiums of the taxpayer's employees.

(b) For purposes of this section, both of the following definitions apply:

(1) "Cafeteria plan" means a qualified cafeteria plan as defined in Section 125 of the Internal Revenue Code.

(2) "Employer" means any person, corporation, association, or limited liability company, or any agent thereof, that is doing business in this state, is deriving income from sources within this state, or is subject to the laws of this state. "Employer" also includes the State of California, or any political subdivision or agency thereof, including the Regents of the University of California, any city organized under a freeholders' charter, or any political body that is not a subdivision or agency of the state, and any person, officer, employee, department, or agency thereof, making payments of wages to employees for services performed within this state.

(3) "Qualified taxpayer" means an employer.

(c) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "tax" for the succeeding seven years.

(d) No deduction shall be allowed, as otherwise provided in this part, for that portion of any costs paid or incurred for the taxable year for which a credit is allowed under this section.

(e) No credit may be claimed under this section with respect to any amount for which any other credit has been claimed under this part.

(f) On or before January 1, 2011, the Franchise Tax Board shall provide a report on the utilization of the tax credit described in this section to the chairs and vice chairs of the Senate Committee on Health, the Senate Committee on Revenue and Taxation, the Assembly Committee on Health, and the Assembly Committee on Revenue and Taxation. The report shall include information regarding the effectiveness of this credit, including the amount of the credit claimed, an estimate of the number of Section 125 cafeteria plans established and the number of employees affected, and information regarding the types of benefits offered by these plans.

(g) This section shall remain in effect until December 1, 2012, and as of that date is repealed.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

O